

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

Scott Driscoll,

Plaintiff,

v.

Navient Solutions, LLC; and DOES 1-10,
inclusive,

Defendants.

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: Civil Action No.: 1:18-cv-80
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COMPLAINT

For this Complaint, the Plaintiff, Scott Driscoll, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. (the "TCPA").

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. The Plaintiff, Scott Driscoll ("Plaintiff"), is an adult individual residing in Waterford, Pennsylvania, and is a "person" as defined by 47 U.S.C. § 153(39).

4. The Defendant, Navient Solutions, LLC ("Navient"), is a Virginia business entity with an address of 300 Continental Drive, Newark, Delaware 19713, and is a "person" as defined by 47 U.S.C. § 153(39).

5. Does 1-10 (the “Agents”) are individual agents employed by Navient and whose identities are currently unknown to the Plaintiff. One or more of the Agents may be joined as parties once their identities are disclosed through discovery.

6. Navient at all times acted by and through one or more of the Agents.

FACTS

7. In or around October 2016, Navient called Plaintiff’s cellular telephone, number 814-xxx-3449, in an attempt to reach a person other than Plaintiff.

8. At all times mentioned herein, Navient contacted Plaintiff using an automated telephone dialer system (“ATDS” or “predictive dialer”) and/or by using an artificial or prerecorded voice.

9. When Plaintiff answered Navient’s calls, he heard a prerecorded message requesting a call back from “Logan Holmes,” an individual unknown to Plaintiff.

10. Plaintiff informed Navient that he was being called in error and directed Navient to cease all communications with him.

11. Nonetheless, Navient continued to place automated calls to Plaintiff’s cellular telephone.

12. Navient’s calls directly interfered with Plaintiff’s right to peacefully enjoy a service that Plaintiff paid for and caused Plaintiff a significant amount of anxiety, frustration and annoyance.

COUNT I **VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, ET SEQ.**

13. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

14. At all times mentioned herein and within the last four years, Defendants called Plaintiff on his cellular telephone using an ATDS or predictive dialer and/or by using a prerecorded or artificial voice.

15. Plaintiff never provided his cellular telephone number to Defendants and never provided his consent to be contacted on his cellular telephone.

16. Without prior express consent, Defendants contacted Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

17. Defendants continued to place automated calls to Plaintiff's cellular telephone after being advised multiple times it had the wrong number and knowing there was no consent to continue the calls. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

18. The telephone number called by Defendants was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

19. The calls from Defendants to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

20. Each of the aforementioned calls made by Defendants constitutes a violation of the TCPA.

21. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

22. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendants:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
- C. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 13, 2018

Respectfully submitted,

By /s/ Jody B. Burton

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